

Appl. No. 10/633,970  
Any. Docket No. 9153R  
Appellant Brief April 6, 2005  
Reply to Office Action of December 2, 2004  
Notice of Appeal February 25, 2005  
Customer No. 27752

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**APR 06 2005**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Application No. : 10/633,970  
Appellant(s) : Cimiluca et al.  
Filed : August 4, 2003  
Title : COMPOSITION COMPRISING A PLURALITY OF PARTICLES  
OR AGGLOMERATES HAVING A DEFINED PARTICLE SIZE  
TC/A.U. : 1623  
Examiner : E. White  
Conf. No. : 5176  
Docket No. : 9153R  
Customer No. : 27752

**APPEAL BRIEF**

Mail Stop Appeal Brief - Patents

Commissioner for Patents

P. O. Box 1450

Alexandria, VA 22313-1450

Dear Sir,

This Brief is filed pursuant to the appeal from the U.S. Patent and Trademark Office decision mailed December 2, 2004 finally rejecting Claims 1-59. A Notice of Appeal was timely filed on February 25, 2005.

**REAL PARTY IN INTEREST**

The real party in interest is The Procter & Gamble Company of Cincinnati, Ohio.

**RELATED APPEALS AND INTERFERENCES**

There are no known related appeals, interferences, or judicial proceedings.

**STATUS OF CLAIMS**

Claims 1-59 are finally rejected. Claims 1-59 are appealed.

A complete copy of the appealed claims is set forth in the Claims Appendix attached herein.

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culled from the prior art to fit parameters." *See ATD Corp. v. Lydall, Inc.*, 159 F.3d 534, 48 USPQ2d 1321 (Fed. Cir. 1998). "There should be something in the prior art or a convincing line of reasoning in the answer suggesting the desirability of combining the reference in such a manner as to arrive at the claimed invention." *In re Dembiczak* 175 F.3d 994, 999 (Fed. Cir. 1999).

Therefore, Appellants contend that the claimed invention is unobvious and that the rejection should be withdrawn.

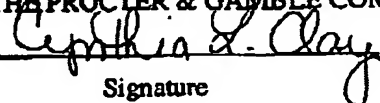
#### SUMMARY

In view of all of the above, it is respectfully submitted that the aforementioned rejections are erroneous. The Board's reversal of the rejections is respectfully requested.

Respectfully Submitted,

THE PROCTER & GAMBLE COMPANY

By

  
Signature

Cynthia L. Clay

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April 6, 2005

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